

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEWAYNE PATTERSON,

Defendant.

2:10-CR-353 JCM (LRL)

ORDER

Presently before the court is the government's motion to dismiss the criminal indictment filed against Dewayne Patterson pursuant to Federal Rule of Criminal Procedure 48(a). (Doc. #42). Also before the court is Magistrate Judge Lawrence Leavitt's report and recommendation (doc. #40) on the defendant's motion to suppress evidence for violation of the Fourth Amendment.

Under Local Rule IB 1-4 and 28 U.S.C. 636(b)(1), a magistrate judge shall file findings and recommendations for disposition by the district judge. The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made . . . [and] may accept, reject, or modify, in whole or in part, the findings or recommendations." 28 U.S.C. 636(b)(1).

Magistrate Judge Leavitt recommends suppressing evidence seized from room 133 and the statements Patterson made to the police following that unlawful seizure. (Doc. #40). Objections to that recommendation were due on March 17, 2011. To date, not only have no objections have been filed, but the government also notes in the instant motion that it cannot continue prosecution of the

1 instant case following that report.

2 Accordingly, whereas the government has essentially consented to the granting of the motion
3 to suppress, and considering the content of the report and recommendation,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Leavitt's
5 report and recommendation are AFFIRMED in their entirety;

6 IT IS FURTHER ORDERED that the defendant's motion to suppress for Fourth Amendment
7 violation (doc. #21) is hereby GRANTED;

8 IT IS FURTHER ORDERED that the government's motion to dismiss the indictment against
9 defendant Dewayne Patterson (doc. #42) is hereby GRANTED;

10 IT IS FURTHER ORDERED that the calendar call set for April 6, 2011, and the trial set for
11 April 11, 2011, are hereby VACATED.

12 DATED April 5, 2011.

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14 
15 UNITED STATES DISTRICT JUDGE